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HOUSE BILL 1257

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JERRY W. SANDEL

AN ACT

RELATING TO TAXATION; AMENDING THE GASOLINE TAX ACT, THE
PETROLEUM PRODUCTS LOADING FEE ACT AND THE SPECIAL FUELS
SUPPLIER TAX ACT TO CHANGE THE DEFINITION OF WHEN GASOLINE OR
SPECIAL FUEL IS RECEIVED AND WHO RECEIVES IT FOR PURPOSES OF
IMPOSING CERTAIN TAXES; CHANGING THE BOND REQUIREMENTS FOR
CERTAIN TAXPAYERS; AMENDING AND ENACTING SECTIONS OF THE NMSA
1978; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-13-2 NMSA 1978 (being Laws 1971,
Chapter 207, Section 2, as amended) is amended to read:

"7-13-2. DEFINITIONS. -- As used in the Gasoline Tax Act:

A. "aviation gasoline" means ~~[any flammable liquid
used primarily as fuel for the propulsion of motor vehicles,
motorboats or aircraft. "Gasoline" does not include diesel~~

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1 ~~engine fuel, kerosene, liquefied petroleum gas, natural gas and~~
2 ~~products specially prepared and] gasoline sold for use in [the]~~
3 ~~aircraft propelled by engines other than turbo-prop or jet-type~~
4 ~~engines;~~

5 B. "department" means the taxation and revenue
6 department, the secretary of taxation and revenue or any
7 employee of the department exercising authority lawfully
8 delegated to that employee by the secretary;

9 ~~[C. "secretary" means the secretary of taxation and~~
10 ~~revenue or the secretary's delegate;~~

11 ~~D. "motor vehicle" means any self-propelled vehicle~~
12 ~~suitable for operation on highways;~~

13 ~~E. "highway" means every way or place, including~~
14 ~~toll roads, generally open to or intended to be used for public~~
15 ~~travel by motor vehicles, regardless of whether it is~~
16 ~~temporarily closed;~~

17 ~~F.] C. "distributor" means any person, [but] not~~
18 ~~including a rack operator or the United States of America or any~~
19 ~~of its agencies except to the extent now or hereafter permitted~~
20 ~~by the constitution and laws thereof, who receives gasoline~~
21 ~~[within the meaning of "received" as defined in this section;~~

22 ~~G. "wholesaler" means any person not a distributor~~
23 ~~who sells gasoline in quantities of thirty five gallons or more~~
24 ~~and does not deliver such gasoline into the fuel supply tanks of~~
25 ~~motor vehicles;~~

1 H. ~~"retailer" means any person who sells gasoline in~~
2 ~~quantities of thirty five gallons or less and delivers such~~
3 ~~gasoline into the fuel supply tanks of motor vehicles;~~

4 I. ~~the definitions of "distributor", "wholesaler"~~
5 ~~and "retailer" shall be construed so that a person may at the~~
6 ~~same time be a retailer and a distributor or a retailer and a~~
7 ~~wholesaler;~~

8 J. ~~"person" means:~~

9 (1) ~~any individual, estate, trust, receiver,~~
10 ~~cooperative association, club, corporation, company, firm,~~
11 ~~partnership, limited liability company, limited liability~~
12 ~~partnership, joint venture, syndicate or other entity, including~~
13 ~~any gas, water or electric utility owned or operated by a~~
14 ~~county, municipality or other political subdivision of the~~
15 ~~state; or~~

16 (2) ~~the United States or any agency or~~
17 ~~instrumentality thereof or the state of New Mexico or any~~
18 ~~political subdivision thereof;~~

19 K. ~~"received" means:~~

20 (1)

21 (a) ~~gasoline which is produced, refined,~~
22 ~~manufactured, blended or compounded at a refinery in this state~~
23 ~~or stored at a pipeline terminal in this state by any person is~~
24 ~~"received" by such person when it is loaded there into tank~~
25 ~~cars, tank trucks, tank wagons or other types of transportation~~

1 ~~equipment or when it is placed into any tank or other container~~
2 ~~from which sales or deliveries not involving transportation are~~
3 ~~made;~~

4 ~~(b) when, however, such gasoline is~~
5 ~~shipped or delivered to another person registered as a~~
6 ~~distributor under the Gasoline Tax Act, then it is "received" by~~
7 ~~the distributor to whom it is so shipped or delivered; and~~

8 ~~(c) further, when such gasoline is~~
9 ~~shipped or delivered to another person not registered as a~~
10 ~~distributor under the Gasoline Tax Act for the account of a~~
11 ~~person that is so registered, it is "received" by the~~
12 ~~distributor for whose account it is shipped;~~

13 ~~(2) notwithstanding the provisions of Paragraph~~
14 ~~(1) of this subsection, when gasoline is shipped or delivered~~
15 ~~from a refinery or pipeline terminal to another refinery or~~
16 ~~pipeline terminal, such gasoline is not "received" by reason of~~
17 ~~such shipment or delivery;~~

18 ~~(3) any product other than gasoline that is~~
19 ~~blended to produce gasoline other than at a refinery or pipeline~~
20 ~~terminal in this state is "received" by a person who is the~~
21 ~~owner thereof at the time and place the blending is completed;~~
22 ~~and~~

23 ~~(4) except as otherwise provided, gasoline is~~
24 ~~"received" at the time and place it is first unloaded in this~~
25 ~~state and by the person who is the owner thereof immediately~~

1 ~~preceding the unloading, unless the owner immediately after the~~
2 ~~unloading is a registered distributor, in which case such~~
3 ~~registered distributor is considered as having received the~~
4 ~~gasoline;~~

5 L. ~~"drip gasoline" means a combustible hydrocarbon~~
6 ~~liquid formed as a product of condensation from either~~
7 ~~associated or nonassociated natural or casing head gas which~~
8 ~~remains a liquid at existing atmospheric temperature and~~
9 ~~pressure;~~

10 M. ~~"gallon" means the quantity of liquid necessary~~
11 ~~to fill a standard United States gallon liquid measure or that~~
12 ~~same quantity adjusted to a temperature of sixty degrees~~
13 ~~fahrenheit at the election of any distributor, but a distributor~~
14 ~~shall report on the same basis for a period of at least one~~
15 ~~year; and~~

16 N. ~~"ethanol blended fuel" means gasoline received in~~
17 ~~New Mexico containing a minimum of ten percent by volume of~~
18 ~~denatured ethanol, of at least one hundred ninety-nine proof,~~
19 ~~exclusive of denaturants] in this state; "distributor" shall be~~
20 ~~construed so that a person simultaneously may be both a~~
21 ~~distributor and a retailer, rack operator or importer;~~

22 D. "drip gasoline" means a combustible hydrocarbon
23 liquid formed as a product of condensation from either
24 associated or nonassociated natural or casing head gas and that
25 remains a liquid at room temperature and pressure;

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1 E. "ethanol blended fuel" means gasoline containing
2 a minimum of ten percent by volume of denatured ethanol, of at
3 least one hundred ninety-nine proof, exclusive of denaturants;

4 F. "fuel supply tank" means any tank or other
5 receptacle in which or by which fuel may be carried and supplied
6 to the fuel-furnishing device or apparatus of the propulsion
7 mechanism of a motor vehicle when the tank or receptacle either
8 contains gasoline or gasoline is delivered into it;

9 G. "gallon" means the quantity of liquid necessary
10 to fill a standard United States gallon liquid measure or that
11 same quantity adjusted to a temperature of sixty degrees
12 fahrenheit at the election of any distributor, but a distributor
13 shall report on the same basis for a period of at least one
14 year;

15 H. "gasoline" means any flammable liquid hydrocarbon
16 used primarily as fuel for the propulsion of motor vehicles,
17 motorboats or aircraft except for diesel engine fuel, kerosene,
18 liquefied petroleum gas, compressed or liquefied natural gas and
19 products specially prepared and sold for use in aircraft
20 propelled by turbo-prop or jet-type engines;

21 I. "government-licensed vehicle" means a motor
22 vehicle lawfully displaying a registration plate, as defined in
23 the Motor Vehicle Code, issued by the United States or any state
24 identifying the motor vehicle as belonging to the United States
25 or any of its agencies or instrumentalities or an Indian nation,

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1 tribe or pueblo or any of its political subdivisions, agencies
2 or instrumentalities;

3 J. "highway" means every road, highway,
4 thoroughfare, street or way, including toll roads, generally
5 open to the use of the public as a matter of right for the
6 purpose of motor vehicle travel regardless of whether it is
7 temporarily closed for the purpose of construction,
8 reconstruction, maintenance or repair;

9 K. "motor vehicle" means any self-propelled vehicle
10 or device that is either subject to registration under Section
11 66-3-1 NMSA 1978 or used or that may be used on the public
12 highways in whole or in part for the purpose of transporting
13 persons or property and includes any connected trailer or
14 semi trailer;

15 L. "person" means an individual or any other entity,
16 including, to the extent permitted by law, any federal, state or
17 other government or any department, agency, instrumentality or
18 political subdivision of any federal, state or other government;

19 M. "rack operator" means the operator of a refinery
20 in this state or the owner of gasoline stored at a pipeline
21 terminal in this state;

22 N. "retailer" means a person who sells gasoline
23 generally in quantities of thirty-five gallons or less and
24 delivers such gasoline into the fuel supply tanks of motor
25 vehicles. "Retailer" shall be construed so that a person

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1 simultaneously may be both a retailer and a distributor or
2 wholesaler;

3 O. "secretary" means the secretary of taxation and
4 revenue or the secretary's delegate;

5 P. "taxpayer" means a person required to pay
6 gasoline tax; and

7 Q. "wholesaler" means a person who is not a
8 distributor and who sells gasoline in quantities of thirty-five
9 gallons or more and does not deliver such gasoline into the fuel
10 supply tanks of motor vehicles. "Wholesaler" shall be construed
11 so that a person simultaneously may be a wholesaler and a
12 retailer."

13 Section 2. A new section of the Gasoline Tax Act, Section
14 7-13-2.1 NMSA 1978, is enacted to read:

15 "7-13-2.1. [NEW MATERIAL] WHEN GASOLINE RECEIVED-- WHO IS
16 REQUIRED TO PAY GASOLINE TAX. --

17 A. A rack operator receives gasoline at the time and
18 place when the rack operator first loads the gasoline at the
19 refinery or pipeline terminal into tank cars, tank trucks, tank
20 wagons or any other type of transportation equipment or when the
21 rack operator places the gasoline into any tank or other
22 container in this state from which sales or deliveries not
23 involving transportation are made. A rack operator who receives
24 gasoline is required to pay the gasoline tax on the gasoline
25 received, except as provided otherwise in Subsection B of this

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1 section. Gasoline is not received when it is shipped from one
2 refinery or pipeline terminal to another refinery or pipeline
3 terminal.

4 B. When a rack operator first loads gasoline at the
5 refinery or pipeline terminal into tank cars, tank trucks, tank
6 wagons or any other type of transportation equipment for the
7 account of another person who is registered with the department
8 as a distributor and is taxable under the Gasoline Tax Act,
9 however, that person receives the gasoline and is required to
10 pay the gasoline tax.

11 C. Gasoline imported into New Mexico by any means
12 other than in the fuel supply tank of a motor vehicle or by
13 pipeline is received at the time and place it is imported into
14 this state. The person who owns the gasoline at the time of
15 importation receives the gasoline and is required to pay the
16 gasoline tax.

17 D. If gasoline is received within the exterior
18 boundaries of an Indian reservation or pueblo grant and the
19 person required to pay the gasoline tax is immune from state
20 taxation, the gasoline is also received when the gasoline is
21 transported off the reservation or pueblo grant by any means
22 other than in the fuel supply tank of a motor vehicle or by
23 pipeline. Any person who owns the gasoline after the
24 transportation off the reservation or pueblo grant receives the
25 gasoline and is the person required to pay the gasoline tax

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1 unless the gasoline tax has been paid by a previous owner. "

2 Section 3. Section 7-13-4 NMSA 1978 (being Laws 1991,
3 Chapter 9, Section 32) is amended to read:

4 "7-13-4. DEDUCTIONS--GASOLINE TAX.--In computing the
5 gasoline tax due, the following amounts of gasoline may be
6 deducted from the total amount of gasoline received in New
7 Mexico during the tax period, provided that satisfactory proof
8 thereof is furnished to the department:

9 A. gasoline received in New Mexico, but ~~sold for~~
10 ~~export or~~ exported from this state by a rack operator,
11 distributor or wholesaler other than in the fuel supply tank of
12 a motor vehicle ~~and~~ or sold for export by a rack operator or
13 distributor; provided that, in either case:

14 (1) the person exporting the gasoline is
15 registered in or licensed by the destination state to pay that
16 state's gasoline or equivalent fuel tax;

17 (2) proof is submitted that the destination
18 state's gasoline or equivalent fuel tax has been paid or is not
19 due with respect to the gasoline; or

20 (3) the destination state's gasoline or
21 equivalent fuel tax is paid to New Mexico in accordance with the
22 terms of an agreement entered into pursuant to Section 9-11-12
23 NMSA 1978 with the destination state;

24 B. gasoline received in New Mexico sold to the
25 United States or any agency or instrumentality thereof for the

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1 exclusive use of the United States or any agency or
2 instrumentality thereof. Gasoline sold to the United States
3 includes gasoline delivered into the supply tank of a
4 government-licensed vehicle of the United States; and

5 C. gasoline received in New Mexico sold to an Indian
6 nation, tribe or pueblo or any political subdivision, agency or
7 instrumentality of that Indian nation, tribe or pueblo for the
8 exclusive use of the Indian nation, tribe or pueblo or any
9 political subdivision, agency or instrumentality thereof.

10 Gasoline sold to an Indian nation, tribe or pueblo includes
11 gasoline delivered into the supply tank of a government-licensed
12 vehicle of the Indian nation, tribe or pueblo "

13 Section 4. Section 7-13-5 NMSA 1978 (being Laws 1971,
14 Chapter 207, Section 5, as amended) is amended to read:

15 "7-13-5. TAX RETURNS--PAYMENT OF TAX. --Rack operators and
16 distributors shall file gasoline tax returns in form and content
17 as prescribed by the secretary on or before the twenty-fifth day
18 of the month following the month in which gasoline is received
19 in New Mexico. Such returns shall be accompanied by payment of
20 the amount of gasoline tax due. "

21 Section 5. Section 7-13-7 NMSA 1978 (being Laws 1971,
22 Chapter 207, Section 7, as amended) is amended to read:

23 "7-13-7. REGISTRATION NECESSARY TO ENGAGE IN BUSINESS AS
24 RACK OPERATOR, DISTRIBUTOR, WHOLESALER OR RETAILER. -- Each person
25 engaged in the business of selling gasoline in New Mexico as a

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1 rack operator, distributor, wholesaler or retailer shall
2 register as such under the provisions of Section 7-1-12 NMSA
3 1978. "

4 Section 6. A new section of the Gasoline Tax Act is
5 enacted to read:

6 " [NEW MATERIAL] BOND REQUIRED OF TAXPAYERS. --

7 A. Except as provided in Subsection H of this
8 section, every taxpayer shall file with the department a bond on
9 a form approved by the attorney general with a surety company
10 authorized by the state corporation commission to transact
11 business in this state as a surety and upon which bond the
12 taxpayer is the principal obligor and the state the obligee.
13 The bond shall be conditioned upon the prompt filing of true
14 reports and the payment by the taxpayer to the department of all
15 taxes levied by the Gasoline Tax Act, together with all
16 applicable penalties and interest thereon.

17 B. In lieu of the bond, the taxpayer may elect to
18 file with the department cash or bonds of the United States or
19 New Mexico or of any political subdivision of the state.

20 C. The total amount of the bond, cash or securities
21 required of any taxpayer shall be fixed by the department and
22 may be increased or reduced by the department at any time,
23 subject to the limitations provided in this section.

24 D. In fixing the total amount of the bond, cash or
25 securities required of any taxpayer required to post bond, the

1 department shall require an equivalent in total amount to at
2 least two times the amount of the department's estimate of the
3 taxpayer's monthly gasoline tax, determined in such manner as
4 the secretary may deem proper; provided, however, the total
5 amount of bond, cash or securities required of a taxpayer shall
6 never be less than one thousand dollars (\$1,000).

7 E. In the event the department decides that the
8 amount of the existing bond, cash or securities is insufficient
9 to insure payment to this state of the amount of the gasoline
10 tax and any penalties and interest for which the taxpayer is or
11 may at any time become liable, then the taxpayer, upon written
12 demand of the department mailed to the last known address of the
13 taxpayer as shown on the records of the department, shall file
14 an additional bond, cash or securities in the manner, form and
15 amount determined by the department to be necessary to secure at
16 all times the payment by the taxpayer of all taxes, penalties
17 and interest due under the Gasoline Tax Act.

18 F. A surety on a bond furnished by a taxpayer as
19 required by this section shall be released and discharged from
20 all liability accruing on the bond after the expiration of
21 ninety days from the date upon which the surety files with the
22 department a written request to be released and discharged;
23 provided, however, that such request shall not operate to
24 release or discharge the surety from any liability already
25 accrued or that shall accrue before the expiration of the

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1 ninety-day period, unless a new bond is filed during the ninety-
2 day period, in which case the previous bond may be canceled as
3 of the effective date of the new bond. On receipt of notice of
4 such request, the department promptly shall notify the taxpayer
5 who furnished the bond that the taxpayer, on or before the
6 expiration of the ninety-day period, shall file with the
7 department a new bond with a surety satisfactory to the
8 department in the amount and form required in this section.

9 G. The taxpayer required to file bond with or
10 provide cash or securities to the department in accordance with
11 this section and who is required by another state law to file
12 another bond with or provide cash or securities to the
13 department may elect to file a combined bond or provide cash or
14 securities applicable to the provisions of both this section and
15 the other law, with the approval of the secretary. The amount
16 of the combined bond, cash or securities shall be determined by
17 the department, and the form of the combined bond shall be
18 approved by the attorney general.

19 H. Every taxpayer who, for the twenty-four month
20 period immediately preceding July 1, 1994, has not been a
21 delinquent taxpayer pursuant to the Gasoline Tax Act is exempt
22 from the requirement pursuant to this section to file a bond. A
23 taxpayer required to file a bond pursuant to the provisions of
24 this section who, for a twenty-four consecutive month period
25 ending after July 1, 1994, has not been a delinquent taxpayer

1 pursuant to the Gasoline Tax Act may request to be exempt from
2 the requirement to file a bond beginning with the first day of
3 the first month following the end of the twenty-four month
4 period. If a taxpayer exempted pursuant to this subsection
5 subsequently becomes a delinquent taxpayer under the Gasoline
6 Tax Act, the department may terminate the exemption and require
7 the filing of a bond in accordance with this section. If the
8 department terminates the exemption, the termination shall not
9 be effective any earlier than ten days after the date the
10 department notifies the taxpayer in writing of the termination."

11 Section 7. Section 7-13A-2 NMSA 1978 (being Laws 1990,
12 Chapter 124, Section 15, as amended) is amended to read:

13 "7-13A-2. DEFINITIONS. --As used in the Petroleum Products
14 Loading Fee Act:

15 A. "department" means the taxation and revenue
16 department, the secretary of taxation and revenue or any
17 employee of the department exercising authority lawfully
18 delegated to that employee by the secretary;

19 B. "distributor" means any person registered or
20 required to be registered as a rack operator or distributor for
21 purposes of the Gasoline Tax Act and any person ~~who receives~~
22 ~~special fuel in this state~~ registered or required to be
23 registered as a rack operator or special fuel supplier for
24 purposes of the Special Fuels Supplier Tax Act;

25 C. "gallon" means the quantity of liquid necessary

1 to fill a standard United States gallon liquid measure, which is
2 approximately 3.785 liters, or that same quantity adjusted to a
3 temperature of sixty degrees fahrenheit at the election of any
4 distributor, but a distributor shall report on the same basis
5 for a period of at least one year;

6 ~~[D. "gasoline" means any flammable liquid used~~
7 ~~primarily as fuel for the propulsion of motor vehicles,~~
8 ~~motorboats or aircraft. "Gasoline" does not include~~
9 ~~diesel engine fuel, kerosene and products specially prepared and~~
10 ~~sold for use in the turboprop or jet-type engines;~~

11 ~~E. "highway" means every road, highway,~~
12 ~~thoroughfare, street or way, including toll roads, generally~~
13 ~~open to the use of the public as a matter of right for the~~
14 ~~purpose of motor vehicle travel, and notwithstanding that the~~
15 ~~same may be temporarily closed for the purpose of construction,~~
16 ~~reconstruction, maintenance or repair;]~~

17 D. "load" means eight thousand gallons of petroleum
18 product;

19 E. "loading" means the act of placing or causing to
20 be placed any petroleum product that is produced, refined,
21 manufactured, blended or compounded at a refinery in this state
22 or stored at a pipeline terminal in this state into tank cars,
23 tank trucks, tank wagons or other types of transportation
24 equipment or into any tank or other container from which sales
25 or deliveries not involving transportation are made

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1 F. "motor vehicle" means any self-propelled vehicle
2 or device that is used or may be used ~~[on the public highways in~~
3 ~~whole or in part]~~ for the purpose of transporting persons or
4 property and includes any connected trailer or semitrailer;

5 G. "person" means an individual or any other legal
6 entity, including any gas, water or electric utility owned or
7 operated by a county, municipality or other political
8 subdivision of the state. "Person" also means, to the extent
9 permitted by law, any federal, state or other government or any
10 department, agency or instrumentality of the state, county,
11 municipality or any political subdivision thereof;

12 H. "petroleum product" means ~~[gasoline and special~~
13 ~~fuels;~~

14 I. ~~"received" means:~~

15 (1)

16 (a) ~~a petroleum product that is produced,~~
17 ~~refined, manufactured, blended or compounded at a refinery in~~
18 ~~this state or stored at a pipeline terminal in this state by any~~
19 ~~person is "received" by such person when it is loaded there into~~
20 ~~tank cars, tank trucks, tank wagons or other types of~~
21 ~~transportation equipment or when it is placed into any tank or~~
22 ~~other container from which sales or deliveries not involving~~
23 ~~transportation are made;~~

24 (b) ~~when, however, such a petroleum~~
25 ~~product is shipped or delivered to another distributor, then it~~

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1 is "received" by the distributor to whom it is so shipped or
2 delivered; and

3 (c) ~~further, when such petroleum product~~
4 ~~is shipped or delivered to another person not a distributor for~~
5 ~~the account of a person that is a distributor, it is "received"~~
6 ~~by the distributor for whose account it is shipped;~~

7 (2) ~~notwithstanding the provisions of Paragraph~~
8 ~~(1) of this subsection, when a petroleum product is shipped or~~
9 ~~delivered from a refinery or pipeline terminal to another~~
10 ~~refinery or pipeline terminal, the petroleum product is not~~
11 ~~"received" by reason of such shipment or delivery;~~

12 (3) ~~any product other than gasoline that is~~
13 ~~blended to produce gasoline other than at a refinery or pipeline~~
14 ~~terminal in this state is "received" by a person who is the~~
15 ~~owner thereof at the time and place the blending is completed;~~
16 and

17 (4) ~~except as otherwise provided, a petroleum~~
18 ~~product is "received" at the time and place it is first unloaded~~
19 ~~in this state and by the person who is the owner thereof~~
20 ~~immediately preceding the unloading, unless the owner~~
21 ~~immediately after the unloading is a distributor, in which case~~
22 ~~the distributor is considered as having "received" the petroleum~~
23 ~~product] any liquid flammable hydrocarbon used primarily as fuel~~
24 ~~for the propulsion of motor vehicles, motorboats or aircraft~~
25 ~~regardless of whether it is used or intended to be used as~~

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1 propulsion fuel in a particular instance. "Petroleum product"
2 includes but is not limited to gasoline with or without
3 additives, gasoline blended with other liquid hydrocarbons such
4 as ethanol, diesel-engine fuel and kerosene, but "petroleum
5 product" excludes petroleum products subject to the Alternative
6 Fuel Tax Act; and

7 [J.] I. "secretary" means, unless the context
8 indicates another meaning the secretary of taxation and revenue
9 or the secretary's delegate; and

10 ~~[K. "special fuel" means diesel-engine fuel,~~
11 ~~kerosene and all other liquid fuels used for the generation of~~
12 ~~power to propel a motor vehicle, except:~~

13 ~~(1) gasoline as defined in Section 7-13-2 NMSA~~
14 ~~1978;~~

15 ~~(2) alternative fuel as defined in the~~
16 ~~Alternative Fuel Tax Act;~~

17 ~~(3) products specially prepared and sold for~~
18 ~~use in turboprop or jet-type aircraft; and~~

19 ~~(4) liquefied petroleum gases and natural gas]~~

20 J. "unobligated balance of the corrective action
21 fund" means corrective action fund equity less all known or
22 anticipated liabilities against the fund "

23 Section 8. Section 7-16A-2 NMSA 1978 (being Laws 1992,
24 Chapter 51, Section 2, as amended) is amended to read:

25 "7-16A-2. DEFINITIONS. --As used in the Special Fuels

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1 Supplier Tax Act:

2 A. "bulk storage" means the storage of special fuels
3 in any tank or receptacle, other than a supply tank, for the
4 purpose of sale by a dealer or for use by a user or for any
5 other purpose;

6 B. "bulk storage user" means a user who operates,
7 owns or maintains bulk storage in this state from which the user
8 places special fuel into the supply tanks of motor vehicles
9 owned or operated by that user;

10 C. "dealer" means any person who sells and delivers
11 special fuel to a user;

12 D. "department" means the taxation and revenue
13 department, the secretary of taxation and revenue or any
14 employee of ~~[that]~~ the department exercising authority lawfully
15 delegated to that employee by the secretary;

16 E. "government-licensed vehicle" means a motor
17 vehicle lawfully displaying a registration plate, as defined in
18 the Motor Vehicle Code issued by:

19 (1) ~~[issued by]~~ the United States or ~~[by]~~ any
20 state identifying the motor vehicle as belonging to the United
21 States or any of its agencies or instrumentalities; ~~[or to]~~

22 (2) the state of New Mexico identifying the
23 vehicle as belonging to the state of New Mexico or any of its
24 political subdivisions, agencies or instrumentalities; or

25 ~~[(2) issued by]~~ (3) any state identifying the

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1 motor vehicle as belonging to an Indian nation, tribe or pueblo
2 or an agency or instrumentality thereof;

3 F. "gross vehicle weight" means the weight of a
4 motor vehicle or combination motor vehicle without load, plus
5 the weight of any load on the vehicle;

6 G. "highway" means every road, highway,
7 thoroughfare, street or way, including toll roads, generally
8 open to the use of the public as a matter of right for the
9 purpose of motor vehicle travel and notwithstanding that the
10 same may be temporarily closed for the purpose of construction,
11 reconstruction, maintenance or repair;

12 H. "motor vehicle" means any self-propelled vehicle
13 or device that is either subject to registration pursuant to
14 Section 66-3-1 NMSA 1978 or is used or may be used on the public
15 highways in whole or in part for the purpose of transporting
16 persons or property and includes any connected trailer or
17 semi trailer;

18 I. "person" means an individual or any other ~~[legal]~~
19 entity ~~["person" also means]~~, including, to the extent permitted
20 by law, any federal, state or other government or any
21 department, agency ~~[or]~~ instrumentality ~~[of the state, county,~~
22 ~~municipality]~~ or ~~[any]~~ political subdivision ~~[thereof];~~

23 J. ~~"received" means:~~

24 ~~(1) special fuel that is produced, refined,~~
25 ~~manufactured, blended or compounded at a refinery in this state~~

1 ~~or stored at a pipeline terminal in this state by any person is~~
2 ~~"received" by that person when it is loaded there into tank~~
3 ~~cars, tank trucks, tank wagons or other types of transportation~~
4 ~~equipment or when it is placed into any tank or other container~~
5 ~~from which sales or deliveries not involving transportation are~~
6 ~~made; but when such special fuel is shipped or delivered to~~
7 ~~another person:~~

8 ~~(a) registered as a special fuel supplier~~
9 ~~under the Special Fuels Supplier Tax Act, then it is "received"~~
10 ~~by the special fuel supplier to whom it is so shipped or~~
11 ~~delivered; or~~

12 ~~(b) not registered as a special fuel~~
13 ~~supplier under the Special Fuels Supplier Tax Act for the~~
14 ~~account of a person who is so registered, it is "received" by~~
15 ~~the special fuel supplier for whose account it is shipped;~~

16 ~~(2) notwithstanding the provisions of Paragraph~~
17 ~~(1) of this subsection, when special fuel is shipped or~~
18 ~~delivered from a refinery or pipeline terminal to another~~
19 ~~refinery or pipeline terminal, such special fuel is not~~
20 ~~"received" by reason of such shipment or delivery;~~

21 ~~(3) any product other than special fuel that is~~
22 ~~blended to produce special fuel other than at a refinery or~~
23 ~~pipeline terminal in this state is "received" by a person who is~~
24 ~~the owner of the special fuel at the time and place the blending~~
25 ~~is completed;~~

1 ~~(4) except as otherwise provided, special fuel~~
2 ~~is "received" at the time and place it is first unloaded in this~~
3 ~~state and by the person who is the owner thereof immediately~~
4 ~~preceding the unloading, unless the owner immediately after the~~
5 ~~unloading is a registered special fuel supplier, in which case~~
6 ~~the registered special fuel supplier is considered as having~~
7 ~~"received" the special fuel; and~~

8 ~~(5) with respect to a motor vehicle that is not~~
9 ~~registered pursuant to the laws of this state or a motor vehicle~~
10 ~~for which the operator cannot produce a valid tax identification~~
11 ~~card, entry of the motor vehicle into the state. The amount of~~
12 ~~special fuel "received" upon entry into this state shall be~~
13 ~~determined in accordance with regulations of the secretary] of~~
14 ~~any federal, state or other government;~~

15 J. "rack operator" means the operator of a refinery
16 in this state or the owner of special fuel stored at a pipeline
17 terminal in this state;

18 K. "registrant" means any person who has registered
19 a motor vehicle pursuant to the laws of this state or of another
20 state;

21 L. "sale" means any delivery, exchange, gift or
22 other disposition;

23 M. "secretary" means the secretary of taxation and
24 revenue or the secretary's delegate;

25 N. "special fuel" means diesel-engine fuel or

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[bracketed material] = delete

1 kerosene used for the generation of power to propel a motor
2 vehicle [~~except gasoline as defined in Section 7-13-2 NMSA 1978~~
3 ~~or alternative fuel as defined in the Alternative Fuel Tax Act~~];

4 O. "special fuel user" means any user who is a
5 registrant, owner or operator of a motor vehicle using special
6 fuel and having a gross vehicle weight in excess of twenty-six
7 thousand pounds;

8 P. "state" or "jurisdiction" means a state,
9 territory or possession of the United States, the District of
10 Columbia, the commonwealth of Puerto Rico, a foreign country or
11 a state or province of a foreign country;

12 Q. "supplier" means any person, but not including a
13 rack operator or the United States or any of its agencies except
14 to the extent now or hereafter permitted by the constitution of
15 the United States and laws thereof, who receives special fuel
16 [~~within the meaning of "received" as defined in this section~~];

17 R. "supply tank" means any tank or other receptacle
18 in which or by which fuel may be carried and supplied to the
19 fuel-furnishing device or apparatus of the propulsion mechanism
20 of a motor vehicle when the tank or receptacle either contains
21 special fuel or special fuel is delivered into it;

22 S. "tax" means the special fuel excise tax imposed
23 [~~under~~] pursuant to the Special Fuels Supplier Tax Act; and

24 [T. ~~"use" means:~~

25 (1) ~~the receipt or placing of special fuels by~~

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[bracketed material] = delete

1 ~~a special fuel user into the fuel supply tank of any motor~~
2 ~~vehicle registered, owned or operated by the special fuel user;~~

3 ~~(2) the consumption by a special fuel user of~~
4 ~~special fuels in the propulsion of a motor vehicle on the~~
5 ~~highways of this state and any activity ancillary to that~~
6 ~~propulsion; or~~

7 ~~(3) the importation of special fuels in the~~
8 ~~fuel supply tank of any motor vehicle as fuel for the propulsion~~
9 ~~of the motor vehicle on the highways; and~~

10 U.] T. "user" means any person other than the United
11 States government or any of its agencies or instrumentalities;
12 the state of New Mexico or any of its political subdivisions,
13 agencies or instrumentalities; or an Indian nation, tribe or
14 pueblo or any agency or instrumentality of an Indian nation,
15 tribe or pueblo who uses special fuel to propel a motor vehicle
16 on the highways. "

17 Section 9. A new section of the Special Fuels Supplier Tax
18 Act, Section 7-16A-2.1 NMSA 1978, is enacted to read:

19 "7-16A-2.1. [NEW MATERIAL] WHEN SPECIAL FUEL RECEIVED OR
20 USED--WHO IS REQUIRED TO PAY TAX.--

21 A. A rack operator receives special fuel at the time
22 and place when the rack operator first loads the special fuel at
23 the refinery or pipeline terminal into tank cars, tank trucks,
24 tank wagons or any other type of transportation equipment or
25 when the rack operator places the special fuel into any tank or

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1 other container in this state from which sales or deliveries not
2 involving transportation are made. A rack operator who receives
3 special fuel is required to pay special fuel excise tax on the
4 special fuel received, except as provided otherwise in
5 Subsection B of this section. Special fuel is not received when
6 it is shipped from one refinery or pipeline terminal to another
7 refinery or pipeline terminal.

8 B. When the rack operator first loads special fuel
9 at the refinery or pipeline terminal into tank cars, tank
10 trucks, tank wagons or any other type of transportation
11 equipment for the account of another person who is registered
12 with the department as a supplier and is taxable under the
13 Special Fuels Supplier Tax Act, however, that person receives
14 the special fuel and is required to pay the special fuel excise
15 tax.

16 C. Special fuel imported into New Mexico by any
17 means other than in the supply tank of a motor vehicle or by
18 pipeline is received at the time and place it is imported into
19 this state. The person who owns the special fuel at the time of
20 importation receives the special fuel and is required to pay the
21 special fuel excise tax.

22 D. If special fuel is received within the exterior
23 boundaries of an Indian reservation or pueblo grant and the
24 person required to pay the special fuel excise tax is immune
25 from state taxation, the special fuel is also received when the

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1 special fuel is transported off the reservation or pueblo grant
2 by any means other than in the fuel supply tank of a motor
3 vehicle or by pipeline. Any person who owns special fuel after
4 the special fuel is transported off the reservation or pueblo
5 grant receives the special fuel and is the person required to
6 pay the special fuel excise tax, unless the special fuel excise
7 tax has been paid by a previous owner.

8 E. Special fuel is used in New Mexico when it is put
9 into the supply tank of any motor vehicle registered, owned or
10 operated by a special fuel user, consumed by a special fuel user
11 in the propulsion of a motor vehicle on the highways of this
12 state or any activity ancillary to that propulsion, or imported
13 into the state in the fuel supply tank of any motor vehicle for
14 the propulsion of the motor vehicle on New Mexico highways. "

15 Section 10. Section 7-16A-8 NMSA 1978 (being Laws 1992,
16 Chapter 51, Section 8, as amended) is amended to read:

17 "7-16A-8. SPECIAL BULK STORAGE USER PERMIT. --

18 A. The department may issue to a user ~~[an annual]~~ a
19 special bulk storage user permit that shall entitle that user to
20 own, operate, utilize or maintain bulk storage for the sole
21 purpose of placing special fuel from it into the supply tank of
22 an allowable motor vehicle registered, owned or operated by that
23 user. The fee for the special bulk storage user permit shall be
24 ten dollars (\$10.00) per year. Permits shall be issued on a
25 calendar year basis but may be issued for one, two or three

1 years at a time.

2 B. To secure a special bulk storage user permit, an
3 applicant shall:

4 (1) file with the department upon a form
5 furnished by the department an application for a special bulk
6 storage user permit;

7 (2) indicate on the application the number of
8 years, to a maximum of three, for which the applicant requests
9 the permit to be valid;

10 [~~(2)~~] (3) accompany the application with
11 payment of [~~an annual~~] the special bulk storage user permit fee
12 in the amount of ten dollars (\$10.00) per year requested; and

13 [~~(3)~~] (4) accompany the application with a
14 signed affidavit to the effect that the signer shall use the
15 special fuel from the special bulk storage only for the purpose
16 of placing it into the supply tanks of specified allowable motor
17 vehicles registered, owned or operated by the signer.

18 C. It is a violation of the Special Fuels Supplier
19 Tax Act for any special bulk storage user to:

20 (1) sell special fuel from the user's special
21 bulk storage to any other person; or

22 (2) deliver special fuel from the user's
23 special bulk storage into the supply tank of any motor vehicle
24 except specified allowable motor vehicles registered, owned or
25 operated by the special bulk storage user.

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[bracketed material] = delete

1 D. "Allowable motor vehicles", for the purposes of
2 this section, includes but is not limited to motor vehicles used
3 primarily for or suitable for use in construction or farming,
4 such as road graders, backhoes, rubber-tired rollers, front
5 loaders, rubber-tired draglines, farm tractors, self-propelled
6 combines or self-propelled reapers.

7 E. The department may revoke, after due notice and
8 hearing as provided in Section 7-1-24 NMSA 1978, the special
9 bulk storage user permit of any user found to be in violation of
10 any provision of the Special Fuels Supplier Tax Act.

11 F. Special fuel purchased for bulk storage under a
12 special bulk storage user permit shall not be subject to the
13 special fuel excise tax at the time of purchase, but special
14 fuel excise tax shall be due on any special fuel removed from
15 bulk storage if delivered into the supply tank of a motor
16 vehicle that is operated on the highways of this state.

17 G. All special fuel acquired, purchased or received
18 under a special bulk storage user permit shall be acquired,
19 purchased or received from a registered ~~[dealer or]~~ supplier.
20 It is unlawful for any person to sell special fuel in bulk
21 quantities to special bulk storage users unless that person is
22 registered ~~[under]~~ pursuant to the Special Fuels Supplier Tax
23 Act. "

24 Section 11. Section 7-16A-9 NMSA 1978 (being Laws 1992,
25 Chapter 51, Section 9) is amended to read:

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[bracketed material] = delete

1 "7-16A-9. TAX RETURNS--PAYMENT OF TAX [~~SPECIAL FUEL~~
2 ~~SUPPLIERS~~]. --Rack operators and special fuel suppliers shall
3 file special fuel excise tax returns in form and content as
4 prescribed by the secretary on or before the twenty-fifth day of
5 the month following the month in which special fuel is received
6 in New Mexico. Payment of the special fuel excise tax shall be
7 made with or prior to filing of the return."

8 Section 12. Section 7-16A-10 NMSA 1978 (being Laws 1992,
9 Chapter 51, Section 10, as amended) is amended to read:

10 "7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE TAX--SPECIAL
11 FUEL SUPPLIERS.--In computing the special fuel excise tax due,
12 the following amounts of special fuel may be deducted from the
13 total amount of special fuel received in New Mexico during the
14 tax period, provided that satisfactory proof thereof is
15 furnished to the department:

16 A. special fuel received in New Mexico, but [~~sold~~
17 ~~for export or~~] exported from this state by a rack operator,
18 special fuel supplier or dealer, other than in the fuel supply
19 tank of a motor vehicle or sold for export by a rack operator or
20 distributor; provided that, in either case:

21 (1) the person exporting the special fuel is
22 registered in or licensed by the destination state to pay that
23 state's special fuel or equivalent fuel tax;

24 (2) proof is submitted that the destination
25 state's special fuel or equivalent fuel tax has been paid or is

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[bracketed material] = delete

1 not due with respect to the special fuel; or

2 (3) the destination state's special fuel or
3 equivalent fuel tax is paid to New Mexico in accordance with the
4 terms of an agreement entered into pursuant to Section 9-11-12
5 NMSA 1978 with the destination state;

6 B. special fuel sold to the United States or any
7 agency or instrumentality thereof for the exclusive use of the
8 United States or any agency or instrumentality thereof; special
9 fuel sold to the United States includes special fuel delivered
10 into the supply tank of a government-licensed vehicle;

11 C. special fuel sold to the state of New Mexico or
12 any political subdivision, agency or instrumentality thereof for
13 the exclusive use of the state of New Mexico or any political
14 subdivision, agency or instrumentality thereof; special fuel
15 sold to the state of New Mexico includes special fuel delivered
16 into the supply tank of a government-licensed vehicle;

17 D. special fuel sold to an Indian nation, tribe or
18 pueblo or any agency or instrumentality thereof for the
19 exclusive use of the Indian nation, tribe or pueblo or any
20 agency or instrumentality thereof; special fuel sold to an
21 Indian nation, tribe or pueblo includes special fuel delivered
22 into the supply tank of a government-licensed vehicle;

23 E. special fuel sold to the holder of a special bulk
24 storage user permit and delivered into special bulk storage
25 [~~under~~] pursuant to the provisions of Section 7-16A-8 NMSA 1978;

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[bracketed material] = delete

1 and

2 F. special fuel ~~[sold for non-highway use]~~ used in
3 any manner other than for propulsion of motor vehicles on the
4 highways of this state or activities ancillary to that
5 propulsion. "

6 Section 13. Section 7-16A-12 NMSA 1978 (being Laws 1992,
7 Chapter 51, Section 12) is amended to read:

8 "7-16A-12. CREDIT--SPECIAL FUEL EXCISE TAX--SPECIAL FUEL
9 USERS.--In computing any special fuel excise tax due, all
10 special fuel excise tax paid on special fuel used during the
11 reporting period may be credited against the calculated special
12 fuel excise tax due ~~[or weight distance tax due]~~ for that
13 reporting period, provided that satisfactory proof of the
14 special fuel excise tax paid is furnished to the department. "

15 Section 14. Section 7-16A-14 NMSA 1978 (being Laws 1992,
16 Chapter 51, Section 14) is amended to read:

17 "7-16A-14. REGISTRATION NECESSARY TO ENGAGE IN BUSINESS AS
18 RACK OPERATOR, SPECIAL FUEL SUPPLIER OR DEALER. -- Each person
19 engaged in the business of selling special fuel in New Mexico as
20 a rack operator, special fuel supplier or dealer shall register
21 as such under the provisions of Section 7-1-12 NMSA 1978. "

22 Section 15. Section 7-16A-15 NMSA 1978 (being Laws 1992,
23 Chapter 51, Section 15, as amended) is amended to read:

24 "7-16A-15. BOND REQUIRED OF SUPPLIER ~~[OR DEALER]~~. --

25 A. Except as provided in Subsection H of this section,

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[bracketed material] = delete

1 every supplier [~~and dealer~~] shall file with the department a
2 bond on a form approved by the attorney general with a surety
3 company authorized by the state corporation commission to
4 transact business in this state as a surety and upon which bond
5 the supplier [~~or dealer~~] is the principal obligor and the state
6 the obligee. The bond shall be conditioned upon the prompt
7 filing of true reports and the payment by the supplier [~~or~~
8 ~~dealer~~] to the department of all taxes levied by the Special
9 Fuels Supplier Tax Act, together with all applicable penalties
10 and interest thereon.

11 B. In lieu of the bond, the supplier [~~or dealer~~] may
12 elect to file with the department cash or bonds of the United
13 States or New Mexico or of any political subdivision of the
14 state.

15 C. The total amount of the bond, cash or securities
16 required of any supplier [~~or dealer~~] shall be fixed by the
17 department and may be increased or reduced by the department at
18 any time, subject to the limitations provided in this section.

19 D. In fixing the total amount of the bond, cash or
20 securities required of any supplier [~~or dealer~~] required to post
21 bond, the department shall require an equivalent in total amount
22 to at least two times the amount of the department's estimate of
23 the supplier's [~~or dealer's quarterly~~] monthly special fuel
24 excise tax, determined in such manner as the secretary may deem
25 proper; provided, however, [~~that~~] the total amount of bond, cash

Underscored material = new
[bracketed material] = delete

1 or securities required of a supplier ~~[or dealer]~~ shall never be
2 less than one thousand dollars (\$1,000).

3 E. In the event the department decides that the
4 amount of the existing bond, cash or securities is insufficient
5 to insure payment to this state of the amount of the special
6 fuel excise tax and any penalties and interest for which the
7 supplier ~~[or dealer]~~ is or may at any time become liable, then
8 the supplier ~~[or dealer]~~ shall forthwith, upon written demand of
9 the department mailed to the last known address of the supplier
10 ~~[or dealer]~~ as shown on the records of the department, file an
11 additional bond, cash or securities in the manner, form and
12 amount determined by the department to be necessary to secure at
13 all times the payment by the supplier ~~[or dealer]~~ of all taxes,
14 penalties and interest due ~~[under]~~ pursuant to the Special Fuels
15 Supplier Tax Act.

16 F. Any surety on any bond furnished by any supplier
17 ~~[or dealer]~~ as required by this section shall be released and
18 discharged from all liability accruing on the bond after the
19 expiration of ninety days from the date upon which the surety
20 files with the department a written request to be released and
21 discharged; provided, however, ~~[that such]~~ the request shall not
22 operate to release or discharge the surety from any liability
23 already accrued or that shall accrue before the expiration of
24 the ninety-day period, unless a new bond is filed during the
25 ninety-day period, in which case the previous bond may be

Underscored material = new
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1 canceled as of the effective date of the new bond. On receipt
2 of notice of such request, the department shall notify promptly
3 the supplier [~~or dealer~~] who furnished the bond that the
4 supplier [~~or dealer~~] shall, on or before the expiration of the
5 ninety-day period, file with the department a new bond with a
6 surety satisfactory to the department in the amount and form
7 required in this section.

8 G. The supplier [~~or dealer~~] required to file bond
9 with or provide cash or securities to the department in
10 accordance with this section and who is required by any other
11 state law to file another bond with or provide cash or
12 securities to the department may elect to file a combined bond
13 or provide cash or securities applicable to the provisions of
14 both this section and the other law, with the approval of the
15 secretary. The amount of the combined bond, cash or securities
16 shall be determined by the department, and the form of the
17 combined bond shall be approved by the attorney general.

18 H. On July 1, 1994, every supplier [~~or dealer~~] who,
19 for the twenty-four month period immediately preceding that
20 date, has not been a delinquent taxpayer [~~and both has timely~~
21 ~~filed all tax returns due~~] under the Special Fuels Supplier Tax
22 Act or the Special Fuels Tax Act [~~and has timely paid all taxes~~
23 ~~due under those acts~~] is exempt from the requirement [~~under~~]
24 pursuant to this section to file a bond. A supplier [~~or dealer~~]
25 required to file a bond [~~under~~] pursuant to the provisions of

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[bracketed material] = delete

1 this section who, for a twenty-four consecutive month period
2 ending after July 1, 1994, [~~timely files all tax returns due~~
3 ~~under~~] has not been a delinquent taxpayer pursuant to either the
4 Special Fuels Supplier Tax Act or the Special Fuels Tax Act [~~is~~]
5 may request to be exempt from the requirement to file a bond
6 beginning with the first day of the first month following the
7 end of the twenty-four month period. If a supplier [~~or dealer~~]
8 exempted [~~under~~] pursuant to this subsection subsequently
9 becomes a delinquent taxpayer [~~or twice fails in any twelve~~
10 ~~consecutive month period either to timely file a tax return or~~
11 ~~make timely payment of tax due under~~] pursuant to the Special
12 Fuels Supplier Tax Act, the department may terminate the
13 exemption and require the filing of a bond in accordance with
14 this section. If the department terminates the exemption, the
15 termination shall not be effective any earlier than ten days
16 after the date the department notifies the supplier [~~or dealer~~]
17 in writing of the termination. "

18 Section 16. Section 7-16A-19 NMSA 1978 (being Laws 1992,
19 Chapter 51, Section 19, as amended) is amended to read:

20 "7-16A-19. TEMPORARY SPECIAL FUEL USER PERMITS. --

21 A. [~~The department may issue temporary special fuel~~
22 ~~user permits for the privilege of using special fuel in New~~
23 ~~Mexico~~] To prevent evasion of the special fuel excise tax
24 special fuel users whose vehicles are not registered with the
25 department shall acquire a temporary special fuel user permit

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1 from the department before operating the unregistered motor
2 vehicle on the highways of New Mexico The temporary special
3 fuel user permit shall be valid for one entrance and one exit of
4 the state, within a period that shall not exceed forty-eight
5 hours from the time of issuance.

6 ~~[B. Temporary special fuel user permits shall be~~
7 ~~secured from the department.~~

8 ~~C.]~~ B. The fee for a temporary special fuel user
9 permit is five dollars (\$5.00) for each motor vehicle.

10 ~~[D.]~~ C. It is a violation of the Special Fuels
11 Supplier Tax Act for any person to act as a temporary special
12 fuel user without obtaining a valid temporary special fuel user
13 permit from the department. "

14 Section 17. A new section of the Special Fuels Supplier
15 Tax Act is enacted to read:

16 "[NEW MATERIAL] MANIFEST OR BILL OF LADING REQUIRED WHEN
17 TRANSPORTING SPECIAL FUELS. --Every person transporting special
18 fuels from a refinery or other facility at which special fuel is
19 produced, refined, manufactured, blended or compounded or from a
20 pipeline terminal in this state, importing special fuels into
21 this state or exporting special fuels from this state, other
22 than by pipeline or in the fuel supply tanks of motor vehicles,
23 shall carry a manifest or bill of lading in form and content as
24 prescribed by or acceptable to the department. The manifest or
25 bill of lading shall be signed by the consignor and by every

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[bracketed material] = delete

1 person accepting the special fuel or any part of it, with a
2 notation as to the amount accepted. If a manifest or bill of
3 lading is not required to be carried by the terms of this
4 section, any person transporting special fuels without such a
5 manifest or bill of lading shall, upon demand, furnish proof
6 acceptable to the department that the special fuels so
7 transported were legally acquired by a registered supplier or
8 dealer who assumed liability for payment of the tax imposed by
9 the Special Fuels Supplier Tax Act. "

10 Section 18. TEMPORARY PROVISION. -- Gasoline received by a
11 distributor pursuant to the Gasoline Tax Act or special fuel
12 received by a supplier pursuant to the Special Fuels Supplier
13 Tax Act prior to the effective date of this act shall be subject
14 to gasoline tax or special fuel excise tax, as appropriate,
15 pursuant to the provisions of the Gasoline Tax Act or Special
16 Fuels Supplier Tax Act in effect immediately prior to the
17 effective date of this act.

18 Section 19. EFFECTIVE DATE. -- The effective date of the
19 provisions of this act is June 1, 1997, provided that, if this
20 act is enacted without an emergency clause, the effective date
21 is July 1, 1997.

22 Section 20. EMERGENCY. -- It is necessary for the public
23 peace, health and safety that this act take effect immediately.

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

MARCH 10, 1997

1
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6
7 Mr. Speaker:

8
9 Your TAXATION AND REVENUE COMMITTEE, to whom has
10 been referred

11
12 HOUSE BILL 1257

13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:

- 15
16 1. On page 5, line 21, strike ", rack operator".
- 17
18 2. On page 7, line 20, after "state" insert ", any person
19 who blends gasoline in this state".
- 20
21 3. On page 17, strike lines 1 through 4 in their entirety.
- 22
23 4. Reletter succeeding subsections accordingly.
- 24
25 5. On page 18, line 23, after the bracket strike the
remainder of the line and strike lines 24 and 25 in their entirety

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HTRC/HB 1257

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and on page 19, strike lines 1 through 6 in their entirety and insert in lieu thereof "gasoline as defined in the Gasoline Tax Act and special fuel as defined in the Special Fuels Supplier Tax Act; and".

6. On page 23, line 16, after "state" insert ", any person who blends special fuel in this state".

7. On page 38, lines 7 and 8, strike "or dealer"., and thence referred to the APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HTRC/HB 1257

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The roll call vote was 10 For 3 Against

Yes: 10

No: Lovejoy, Lujan, Sandoval

Excused: None

Absent: None

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FORTY-THIRD LEGISLATURE

FIRST SESSION

March 16, 1997

HOUSE FLOOR AMENDMENT number ___1___ to HOUSE BILL 1257, as amended

Amendment sponsored by Representative Jerry W. Sandel

1. Strike House Taxation and Revenue Committee Amendment 2.

2. On page 1, line 13, after "ACT" strike the remainder of the line, strike all of line 14 and strike line 15 up to the semicolon.

3. On page 2, line 18, strike "a rack operator or".

4. On page 7, between lines 21 and 22, insert the following subsection:

"N. "received" means:

(1)

(a) gasoline that is produced, refined, manufactured,

FORTY-THIRD LEGISLATURE
FIRST SESSION

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blended or compounded at a refinery in this state or stored at a pipeline terminal in this state by any person is "received" by such person when it is loaded there into tank cars, tank trucks, tank wagons or other types of transportation equipment, or when it is placed into any tank or other container from which sales or deliveries not involving transportation are made;

(b) when, however, such gasoline is delivered at the refinery or pipeline terminal to another person registered as a distributor under the Gasoline Tax Act, then it is "received" by the distributor to whom it is so delivered;

(c) when such gasoline is delivered at the refinery or pipeline terminal to another person not registered as a distributor under the Gasoline Tax Act for the account of a person that is so registered, it is "received" by the distributor for whose account it is delivered; and

(d) when gasoline is shipped to a distributor, or for the account of a distributor, away from the refinery or pipeline terminal, it is "received" by the distributor where it is unloaded;

(2) notwithstanding the provisions of Paragraph (1) of this subsection, when gasoline is shipped or delivered from a refinery

Underscored material = new
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or pipeline terminal to another refinery or pipeline terminal, such
gasoline is not "received" by reason of such shipment or delivery;

(3) any product other than gasoline that is blended to
produce gasoline other than at a refinery or pipeline terminal in this
state is "received" by a person who is the owner thereof at the time and
place the blending is completed; and

(4) except as otherwise provided, gasoline is "received"
at the time and place it is first unloaded in this state and by the
person who is the owner thereof immediately preceding the unloading,
unless the owner immediately after the unloading is a registered
distributor, in which case such registered distributor is considered as
having received the gasoline;".

5. Reletter the succeeding subsections accordingly.

6. On page 8, line 6, strike "and" and between lines 6 and 7,
insert the following subsection:

"R. "unloaded" means removal of gasoline from tank cars, tank
trucks, tank wagons or other types of transportation equipment into a
nonmobile container at the place at which the unloading takes place;
and".

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7. Reletter the succeeding subsection accordingly.

8. On pages 8 through 10, strike Section 2 in its entirety.

9. Renumber the succeeding sections accordingly.

10. On page 11, strike lines 13 through 25 and on page 12, strike lines 1 through 3.

11. Renumber the succeeding sections accordingly.

Jerry W. Sandel

Adopted _____ Not Adopted _____

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(Chief Clerk)

(Chief Clerk)

Date _____

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FIRST SESSION, 1997

March 19, 1997

Mr. President:

Your WAYS AND MEANS COMMITTEE, to whom has been referred

HOUSE BILL 1257, as amended

has had it under consideration and reports same with recommendation that
it DO PASS, and furthers recommends that the referral to Indian &
Cultural Affairs Committee be withdrawn and it now be referred to the
FINANCE COMMITTEE.

Respectfully submitted,

Carlos R. Cisneros, Chairman

Adopted _____ Not Adopted _____

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Kidd, Leavell, McSorley, Wilson

Absent: None

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